



January 06, 2012

Patrick T. Harker, Ph.D.
President
University of Delaware
104 Hullihen Hall
Newark, DE 19716

Certified Mail
Return Receipt Requested
7006 3450 0000 1573 7200

RE: Expedited Program Review Determination
OPE ID: 00143100
PRCN: 201040327291

Dear President Harker:

From July 20, 2010 through July 22, 2010, Mr. James L. Moore, III and Mr. Kenneth Porter of the U.S. Department of Education (the Department) conducted a focused program review of the University of Delaware's (UD; the University) administration of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) included in Section 485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1092(f) and the Department's implementing regulations at 34 C.F.R. §§668.41-668.46. The University's compliance with the requirements of the Drug-Free Schools and Communities Act and Part 86 of the Department's General Administrative Regulations was also examined during the program review.

UD was selected for review from a list of all institutions of higher education in the state of Delaware with sworn police departments. Please note that the review was not the result of any specific complaint or allegation of non-compliance. The review consisted of an examination of UD's campus crime and security publications, written agreements, police incident reports, arrest records, and disciplinary files as well as information regarding policies, procedures, and programs related to the *Clery Act*. The review also included a comparison of the campus crime statistics submitted by UD to the Department and those provided to students and employees in the Annual Security Report (ASR). The review team also interviewed several institutional officials with *Clery Act* responsibilities.

The Department's program review coincided with the Quality Assurance Review (QAR) that the Federal Bureau of Investigation's Criminal Justice Information Service (CJIS) Audit Unit conducted at UD. The U.S. Department of Education is partnering with the CJIS Audit Unit (CAU) to ensure accurate crime reporting on America's college campuses.

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The CAU reviews the crime reporting practices of selected law enforcement agencies and audits crime statistics that are reported by the states through their participation in the Uniform Crime Reporting program. The results of the QAR are shared with the Department and are used to conduct comparative analyses of the annual crime statistics submitted to the Department by participating postsecondary institutions. The CAU reviewed a total of 55 Group A Offenses and 47 Group B Offenses that were reported during the June - December, 2009 timeframe. During the CAU review, three classification errors were identified; however, none of these exceptions resulted in a violation of the *Clery Act*. As such, no specific actions pursuant to our program review are required as a result of the QAR. A copy of CJIS's report is attached as Appendix A.

The Department reviewed a sample of 165 UDPD incident reports, arrest records, and Office of Student Conduct disciplinary referrals regarding incidents of crime reported to law enforcement and/or campus security authorities during calendar year 2008. These records pertained to reports of Group A Offenses as well as Group B Offenses that resulted in an arrest or disciplinary referral for violation of certain laws involving illegal drugs, illegal possession and/or usage of controlled substances, liquor, and weapons. Both random and judgmental sampling techniques were used to select reports for this review. Approximately 40 incident reports from the initial sample were cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly on the log.

The purpose of this Final Program Review Determination letter is to advise the University of the sole finding of the review and to close the program review.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning UD's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific policing and campus security practices and procedures. Furthermore, it does not relieve UD of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs including the *Clery Act*.

Findings and Final Determinations:

The following area of noncompliance was identified during the program review. This finding of non-compliance is referenced to the applicable statutes and regulations and specifies the actions that were required to come into compliance with the statutes and regulations. The Department has made a Final Determination regarding this violation. The following is an explanation of the violation and its resolution.

Finding # 1: Annual Security Report Not Prepared and Distributed as a Single Comprehensive Document

Citation:

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and the Department's regulations require that all institutions participating in Title IV, HEA financial aid programs prepare a comprehensive annual security report (ASR) that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.46 (b). The ASR must be prepared and distributed as a single document. The only exception to this requirement is that the ASR may cross-reference information regarding the institution's alcohol and other drug abuse prevention programs required by § 120 (a)-(d) of the Higher Education Act. 34 C.F.R. § 668.46 (a)(10).

Federal regulations also require institutions to provide the ASR to all current students and employees through appropriate publications and mailing. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the ASR's availability and its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41 (e)(1).

Non-compliance:

The University of Delaware did not prepare and distribute a comprehensive ASR by October 1, 2009. There are two components to this violation. Specifically, 1) no comprehensive ASR was published; and therefore, 2) no comprehensive ASR was actively distributed to current students and employees. The review team did ascertain that the University did in fact distribute certain crime statistics and policy information required by the *Clery Act*; however, no one document that met all of the *Clery Act* requirements was prepared or distributed to current students and employees.

Failure to prepare an accurate and complete ASR and to actively distribute it to current students and employees in accordance with Federal regulations deprives the campus community of important security information.

Required Action:

As a result of this violation, UD was required to make all necessary substantive and procedural changes to ensure that its 2010 ASR and all subsequent ASR's include all of the statistical disclosures and policy, procedural, and programmatic information required by 34 C.F.R. § 668.46 (b). UD was also required to provide the Department a draft copy of the 2010 ASR before it was published and distributed. The University was also required to provide draft copies of its new policy and procedure statements for the new *Clery Act* provisions contained in the

Higher Education Opportunity Act. UD was also required to provide documentation evidencing the active distribution of its 2010 and 2011 ASR's.

Resolution:

During the site visit, the review team explained the required format for disclosing crime statistics and required policy statements in the ASR. UD officials explained that they did not understand that the ASR must be published and distributed as a single comprehensive document. The Department conducted an in-depth examination of the University's crime statistics and analyzed the policy statements that were distributed to students and employees by various delivery methods. Working with UD officials over an extended period, the Department was able to substantiate the accuracy and completeness of the crime statistics in question. Furthermore, all of UD's required policy disclosures were found to be adequate. As such, the Department determined that all of the disclosures required to be distributed as of October 1, 2009 were accomplished even though the information was not formatted in the proper manner. The Department also examined the 2010 and 2011 ASR's and identified significant improvement in terms of the publication of the ASR as a comprehensive document. We also confirmed that the 2010 and 2011 ASR were published and distributed by October 1st of each year as required by the *Clery Act*.

Finally, the Department worked with UD Police officials to improve the usability and technical and regulatory sufficiency of the University's ASR's throughout the program review process. Several conference calls were conducted throughout the program review process with the last of these meetings taking place on December 21, 2011, where the format and contents of UD's ASR's was discussed. UD produced documentation to resolve the last open questions on January 3, 2012. Because the calendar year 2008 crime statistics were ultimately determined to be free of material errors or omissions, the Department concluded that no substantial misrepresentation occurred as a result of the non-compliance identified above. Corrective action was initiated immediately and additional improvements were incorporated into the next two ASR's. For these reasons, it was determined that this program review could be resolved via the expedited process. UD officials and the Department discussed several proposed changes, such as additional incident report writing training, increased confidential reporting of sex offenses, streamlined issuance of timely warnings and emergency notifications, and increased outreach to Campus Security Authorities, if implemented, should further improve campus policing operations and ensure full compliance with the *Clery Act* going forward.

Record Retention:

Program records relating to the period covered by this program review must be retained until the later of: resolution of the violations, weakness, and other issues identified during the program review or the end of the retention period applicable to all Title IV-related records including campus crime and security documents under 34 C.F.R. § 668.24 (e)(1) and (e)(2).

We would like to express our appreciation for the University's courtesy and ongoing cooperation throughout the review process. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this Final Determination. If you have any questions concerning this document or the program review process, please contact Mr. James L. Moore, III on (215) 656-6495 or at james.moore@ed.gov.

Sincerely,



Ms. Nancy Paula Gifford
Area Case Director

Appendix A: CJIS Quality Assurance Review Report

cc: Mr. Patrick A. Ogden, Chief of Police/Director of Public Safety, UD
Ms. Melissa Stone, Director of Student Financial Services, UD
Dr. Elizabeth H. Sibolski, President, Middle States Association - CHE
Ms. Maureen Laffey, Director, Higher Education Commission, DE Department of Education



IBR Exit Briefing Local Agency Review

University of Delaware Police
Department



Quality Assurance Review

*Shared Management
Shared Responsibility
Shared Success*

A Partnership in Criminal Justice

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Local Agency Review Process

To adequately conduct a state Uniform Crime Reporting (UCR) Program Quality Assurance Review (QAR), the CJIS Audit Unit (CAU) reviews local agencies that contribute to the national Program through their respective state Programs. This helps evaluate the crime reports as they relate to data submission to the national UCR Program via the state UCR Program. The CAU staff contact these agencies through a designated Point of Contact (POC) approximately 45 days prior to the scheduled Review to gather information regarding the flow of reports from the time an incident is reported, to its classification, scoring, and submission to the national UCR Program. During the initial contact call, the auditors discuss logistics pertaining to the on-site Review with the agency POC and make preliminary plans regarding the Review. The CAU staff then follows up with written confirmation of the scheduled QAR to the Chief/Sheriff and UCR POC that will give general information concerning the QAR process.

The local agency QAR consists of three phases:

- Administrative Interview
- Data Quality Review
- Exit Briefing

Administrative Interview

During the administrative interview, CAU staff learn how an agency manages crime reports and whether the data submitted to the national UCR Program comply with national definitions and guidelines or, if not, how the data are converted to national UCR Program standards prior to submission to the national UCR Program.

☐The interview is based on the agency's policies and procedures concerning the national UCR Program's standards, definitions and information requirements. Topics covered during the interview include:

- Duties and responsibilities of the UCR POC
- ☐Records management system
- ☐Classification and Scoring
- ☐Arrests
- ☐Clearances
- ☐Jurisdiction
- ☐Property Values
- ☐Offenders
- ☐Hate Crime
- ☐Law Enforcement Officers Killed or Assaulted (LEOKA)
- ☐Updating/Quality Assurance
- ☐State Program Services

Data Quality Review

During the data quality review, the CAU staff reviews a predetermined number of Group A and Group B incidents based on a statistical sampling method used at the state level. Record counts are distributed to agencies based on their Return A record counts. Case files, including the officer's narrative and supplemental information, are then compared to data reported to the national UCR Program to determine if the standards and definitions were appropriately applied. The CAU staff then determine if the offenses were appropriately classified into the Group A and Group B offense categories for NIBRS reporting as defined by the national UCR Program. The following error/discrepancy categories are considered when reviewing the incidents for accuracy:

- Overreported - Information reported was not documented in the case file.
- Underreported - Additional information is available in the case file and was not reported.
- ☐ Inaccurate – Information reported did not match the case report.

CAU staff compare agency documentation with a NIBRS printout that encompasses the 56 data elements displaying offense, offender, property, victim and arrestee data reported to the national UCR Program.

Overreported, underreported and inaccurate offenses discovered in data element 6 are scored as classification errors when they do not meet the national UCR Program definitions. Other data element discrepancies discovered in the remaining 55 data elements (excluding classification data element 6 errors) are provided for information only to identify systemic technical issues or areas where additional training may be needed.

Classification errors and data element discrepancies are documented for evaluation and discussion with local agency personnel and/or the state UCR Program manager.

Additionally, the CAU staff reviews incidents to ensure Hate Crimes and LEOKA data are reported according to the national standards and definitions for NIBRS.

Exit Briefing

☐ The CAU staff provides an exit briefing packet to the local agency that summarizes the findings based on the administrative interview and the data quality review. The exit briefing packet contains a brief description of all the topics covered during the administrative interview and documents local agency compliance with UCR guidelines. During the exit briefing, the CAU staff will review/discuss each of the classification errors and data element discrepancies with the local agency UCR Point of Contact to verify the auditor's findings. The CAU will answer any questions the agency may have.

Data Quality Classification Results - Group A/B

The data quality portion of this QAR will help assess the state concerning conformance to policy, definitions and information requirements. Requirement One, NIBRS handbook page 2 "The state Program must conform to the national UCR Program's standards definitions and information requirements."

Month(s)
Reviewed: June - Dec 2009

Total Group A
Offenses Reviewed: 55

Offense / Definition Classification

Indicates data element 6 (UCR Offense Code) scored as classification errors when they do not meet the national UCR Program definitions.

Overreported

Underreported

Inaccurate

Total Group B
Records Reviewed: 47

Total underreported Group A offenses
found in Group B Arrest Reports:

Total Classification Errors:

LEOKA

Overreported

Underreported

Hate Crime

Total Hate
Crime Reviewed: 7

Overreported

Underreported

Inaccurate

Inaccurate
from Data
Element 8A

Administrative Interview Results

The administrative interview portion of this QAR will help assess the state concerning conformance to policy, definitions and information requirements. Requirement One, NIBRS handbook page 2 "The state Program must conform to the national UCR Program's standards definitions and information requirements."

Scoring

1. ☐ For counting purposes, the agency:

☐ a. Counts one offense for each victim of a "Crime Against Persons" (UCR Handbook, NIBRS Edition, 1992, p. 29)

Meets UCR Guidelines

b. Counts one offense for each distinct operation or attempt for "Crime Against Property" except motor vehicle theft, where one offense is counted for each stolen vehicle. (UCR Handbook, NIBRS Edition, 1992, p.29)

Meets UCR Guidelines

c. Counts one offense for each "Crime Against Society" (UCR Handbook, NIBRS Edition, 1992, p.29)

Meets UCR Guidelines

Comments:

Arrests

2. ☐ "Arrestee data is to be reported for all persons apprehended for the commission of Group A or Group B Crimes (except Justifiable Homicide). The arrestee data to be reported describes the arrestee (e.g., his/her age, sex, race, etc.) and the circumstances of the arrest." (UCR Handbook, NIBRS Edition, 1992, p. 55)

Meets UCR Guidelines

Comments:

Administrative Interview Results

Clearances

3. ☐ ☐ In order to clear an offense by exceptional means, each of the following four conditions must be met (UCR Handbook, NIBRS Edition, 1992, p. 34)

1. ☐ "The investigation must have clearly and definitely established the identity of at least one offender."
2. ☐ "Sufficient probable cause must have been developed to support the arrest, charging, and prosecution of the offender."
3. ☐ "The exact location of the offender must be known so that an arrest could be made."
4. ☐ "There must be a reason outside the control of law enforcement which prevents the arrest."

Meets UCR Guidelines

4. ☐ "The administrative closing of a case or the "clearing" of it by departmental policy does not permit exceptionally clearing an offense." (UCR Handbook, NIBRS Edition, 1992, p. 34))

Meets UCR Guidelines

Comments:

Jurisdiction

5. ☐ "To be certain that data is not reported more than once by overlapping jurisdictions:" (UCR Handbook, NIBRS Edition, 1992, p. 6)

- a. ☐ "Agencies report only those offenses committed within the . . . boundaries. . ."

Meets UCR Guidelines

- b. ☐ "The recovery of property is reported only by the agency that first reported it missing and/or stolen, regardless of who or what agency recovered it." (UCR Handbook, NIBRS Edition, 1992, p. 6).

Meets UCR Guidelines

- c. ☐ "Agencies report only those arrests made for offenses committed within their own boundaries/jurisdictions." (UCR Handbook, NIBRS Edition, 1992, p. 6) ☐

Meets UCR Guidelines

Comments:

Property Values

6. ☐ ☐ "Property information is to be submitted separately for each type of property loss. . ." (UCR Handbook, NIBRS Edition, 1992, p. 41)

Meets UCR Guidelines

7. ☐ Agency considers the following guidelines in the evaluation of property: (UCR Handbook, NIBRS Edition, 1992, p. 43 - 44)

- a. ☐ "Use fair market value..."
- b. ☐ "Use cost to the merchant (wholesale cost)..."
- c. ☐ "Use victim's evaluation..."
- d. ☐ "Use replacement cost or actual cash cost..."
- e. ☐ "When the victim obviously exaggerates the value of stolen/destroyed/damaged property for insurance or other purposes, common sense and good judgment will dictate a fair market value to be placed on the stolen items by law enforcement."

Meets UCR Guidelines

8. ☐ "The theft of nonnegotiable instruments such as traveler's checks, personal checks, money orders, stocks, bonds, food stamps, etc., should be scored but no value recorded." (UCR Handbook, NIBRS Edition, 1992, p. 44) "Nonnegotiable instruments, documents requiring further action to become negotiable, e.g., unendorsed checks and unendorsed money orders..." (NIBRS, Volume 1: Data Collection Guidelines, 2000, p. 84)

Meets UCR Guidelines

9. "If the value is unknown, one dollar (\$1.00) which means unknown, i.e., 1=Unknown should be entered." (NIBRS, Volume 1: Data Collection Guidelines, 2000, p. 86)

Meets UCR Guidelines

10. ☐ "...in order to obtain some measure of the drug problem, the 'estimated quantity' of seized drugs or narcotics is to be reported." (UCR Handbook, NIBRS Edition, 1992, p. 45)

Meets UCR Guidelines

11. ☐ "...when drugs are involved in other types of crime (e.g., they were stolen in a burglary or burned in an arson) their value is to be reported" (UCR Handbook, NIBRS Edition, 1992, p. 43)

Meets UCR Guidelines

Offenders

12. ☐ "Offender data include characteristics (age, sex, and race) of each offender (up to 99) involved in a crime incident whether or not an arrest has been made." (UCR Handbook, NIBRS Edition, 1992, p. 53)

Meets UCR Guidelines

Comments:

Hate Crime

13. ☐ "The types of bias to be reported to the FBI's UCR Program are limited to those mandated by the enabling Act and its subsequent amendments, i.e., bias based on race, religion, disability, sexual orientation, or ethnicity." (UCR , Hate Crime Data Collection Guidelines, Revised October 1999, p. 2)

Meets UCR Guidelines

14. ☐ "Incidents which do not involve any facts indicating biased motivation on the part of the offender are to be reported as None" (88) (UCR Handbook, NIBRS Edition, 1992, p. 38)

Meets UCR Guidelines

15. ☐ "Incidents involving ambiguous facts (i.e., where some facts are present but are not conclusive) are to be reported as Unknown" (99) (UCR Handbook, NIBRS Edition, 1992, p. 38)

Meets UCR Guidelines

Comments:

Law Enforcement Officers Killed or Assaulted (LEOKA)

☐ Any questions regarding *LEOKA*, call CSMU 5-4831.

☐ (*UCR Handbook, NIBRS Edition, 1992, p. 61 - 65*)

16. ☐ "The form entitled 'Law Enforcement Officers Killed or Assaulted' (LEOKA) is to be used by agencies to report line-of-duty felonious or accidental killings of and assaults on sworn law enforcement officers." (*UCR Handbook, NIBRS Edition, 1992, p. 61*)

Meets UCR Guidelines

17. ☐ "Officers Killed" relates to sworn officers with full arrest powers killed in the line of duty. The number of officers slain by felonious acts and those killed by accident or negligence should be entered (on this form, LEOKA)." (*UCR Handbook, NIBRS Edition, 1992, p. 61*)

Meets UCR Guidelines

18. ☐ "All assaults on officers with or without injuries should be included on this form (LEOKA)." (*UCR Handbook, NIBRS Edition, 1992, p. 63*)

Meets UCR Guidelines

Comments:

Updating / Quality Assurance

19. ☐ "Updated information is to be reported to the national program on discovery of an additional unreported offense, victim, and/or offender; a subsequent arrest or exceptional clearance; discovery of a significant amount of unreported property loss; the recovery of stolen property; or the incorrect entry of important data, such as the offense code, the victim's or arrestee's sex or race, etc." (*NIBRS Volume 1: Data Collection Guidelines, 2000, p. 18*)

Meets UCR Guidelines

Comments:

Administrative Interview Results

State Program Services

20. Submission frequency:

Monthly

Comments: